

too far, it will be recognized as a taking." Pennsylvania Coal Co. v. Mahon, 260 U.S. 393, 415 (1922). The Commission's rate structure is a clear case in which a government agency has gone too far. The Supreme Court defined the point at which a rate regulation has gone too far in FPC v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944):

It is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock.

The return, therefore, "should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital." Id. Moreover, even if the agency's choices underlying the rate regulation can be deemed reasonable, those choices must still add up to a reasonable result. Jersey Cent. Power & Light Co. v. F.E.R.C., 810 F.2d 1168, 1178 (D.C. Cir. 1987).

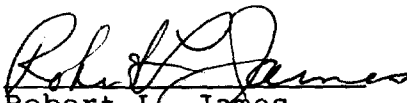
The end result of the Commission's rate regulations is completely unreasonable. The regulations do not achieve the requisite Fifth Amendment balance between "the investor interest in maintaining financial integrity and access to capital markets and the consumer interest in being charged non-exploitative rates." Jersey Cent., 810 F.2d at 1178. Even the Commission itself has acknowledged that the benchmark will not enable all operators to

recover the costs of providing service or enable them to attract capital. Meanwhile, the cost-of-service provisions violate the 1992 Act as well as the Constitution and do not provide a viable alternative to the benchmark.

CONCLUSION

For the foregoing reasons, the Parties listed in Attachment A hereto respectfully request that the Commission amend the cable television rate regulations as set forth herein.

Respectfully submitted,

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Attachment A

Advanced Communications, Inc.	Harmon & Company
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Benchmark Communications	Hook Enterprises
Broadband Communications	Hurst Communications
Brownwood Television Cable Service, Inc.	Jayroc Cablevision
Cable Communications Consultants	Kingwood Cablevision
Cable Services	McDonald Management, Inc.
Cable South, Inc.	McDonald Group, Inc.
Cable Texas, Inc.	Masada Cable Partners
Cable TV of Belzoni	North Coast Cable
Cable USA	OCB Cablevision
CableAmerica Corporation	Pennsylvania Classic Cable
Cablevision of Pennsylvania	SATCOM, Inc.
Cambridge Communications	Savage Communications
Cass Cable TV, Inc.	Schuylkill Valley Trans-Video
Centrovision	Selkirk Communications, Inc.
Columbus TV Cable Corp.	Shen-Heights TV Associates
Community Antenna Systems	Sjoberg's Cable Television
Community Cablevision Company	Starstream Communications
Coosa Cable Company	Sutton Capitol Associates
Corsicana Cable TV	Sweetwater Television Company
Cumberland Valley Cable TV	Telecom Associates
East Texas Cable Company	Twin County Trans-Video
Florida Satellite Network, Inc.	United Video Cablevision, Inc.
Georgia County Cable, Inc.	Van Buren TV Cable Corp.
Halcyon Communications, Inc.	Wander Telecommunications
	Western Cablesystems, Inc.
	Zylstra Communications

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I hereby certify that on this 21st day of July, 1993, copies of the foregoing Joint Opposition to Petitions for Reconsideration were sent by postage-paid, first-class U.S. mail to the following:

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